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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

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6 In Re
7 TYRONE NOEL NUNN

Case No. 2:24-cv-01956-RFB-BNW
8 **ORDER**

9 Tyrone Noel Nunn initiated this case with a document that appeared to seek a patent for a
10 poem that he had written. (ECF No. 1-1). On October 31, 2024, this Court issued an order
11 explaining that if Nunn sought a patent, he must file an application with the United States Patent
12 and Trademark Office. (ECF No. 3). In light of Nunn's *pro se* status, the Court gave him until
13 December 31, 2024, to clarify whether he was trying to initiate a civil rights case and file a civil
14 rights complaint if he wished to do so. (*Id.* at 2). The Court also explained that if Nunn wished to
15 pursue a civil rights case, he must file a complete application to proceed *in forma pauperis* or pay
16 the full \$405 filing fee on or before December 31, 2024. (ECF No. 2.) The Court warned Nunn
17 that the action could be dismissed if he failed to clarify the purpose of this action and file a fully
18 complete application to proceed *in forma pauperis* with all three documents or pay the full \$405
19 filing fee for a civil action by that deadline. (*Id.* at 2-3). That deadline expired and Nunn did not
20 clarify the purpose of this action, file a fully complete application to proceed *in forma pauperis*,
21 pay the full \$405 filing fee, or otherwise respond.

22 District courts have the inherent power to control their dockets and “[i]n the exercise of
23 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.
24 Thompson v. Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th Cir. 1986). A court may
25 dismiss an action based on a party’s failure to obey a court order or comply with local rules. See
26 Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply
27 with local rule requiring *pro se* plaintiffs to keep court apprised of address); Malone v. U.S. Postal

1 Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In
 2 determining whether to dismiss an action on one of these grounds, the Court must consider: (1)
 3 the public's interest in expeditious resolution of litigation; (2) the Court's need to manage its
 4 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
 5 cases on their merits; and (5) the availability of less drastic alternatives. See In re
 6 Phenylpropanolamine Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting Malone v.
 7 U.S. Postal Serv., 833 F.2d 128, 130 (9th Cir. 1987)).

8 The first two factors, the public's interest in expeditiously resolving this litigation and the
 9 Court's interest in managing its docket, weigh in favor of dismissal of Nunn's claims. The third
 10 factor, risk of prejudice to defendants, also weighs in favor of dismissal because a presumption of
 11 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court
 12 or prosecuting an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
 13 factor—the public policy favoring disposition of cases on their merits—is greatly outweighed by
 14 the factors favoring dismissal.

15 The fifth factor requires the Court to consider whether less drastic alternatives can be used
 16 to correct the party's failure that brought about the Court's need to consider dismissal. See Yourish
 17 v. Cal. Amplifier, 191 F.3d 983, 992 (9th Cir. 1999) (explaining that considering less drastic
 18 alternatives *before* the party has disobeyed a court order does not satisfy this factor); accord
 19 Pagtalanun v. Galaza, 291 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive
 20 force of” earlier Ninth Circuit cases that “implicitly accepted pursuit of less drastic alternatives
 21 prior to disobedience of the court’s order as satisfying this element[,]” *i.e.*, like the “initial granting
 22 of leave to amend coupled with the warning of dismissal for failure to comply[,]” have been
 23 “eroded” by Yourish). Courts “need not exhaust every sanction short of dismissal before finally
 24 dismissing a case, but must explore possible and meaningful alternatives.” Henderson v. Duncan,
 25 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
 26 unless Nunn clarifies the purpose of the action and either files a fully complete application to
 27 proceed *in forma pauperis* or pays the \$405 filing fee for a civil action, the only alternative is to
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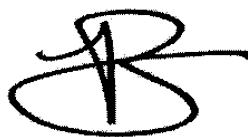
1 enter a second order setting another deadline. But the reality of repeating an ignored order is that
2 it often only delays the inevitable and squanders the Court's finite resources. The circumstances
3 here do not indicate that this case will be an exception: there is no hint that Nunn needs additional
4 time or evidence that he did not receive the Court's order. Setting another deadline is not a
5 meaningful alternative given these circumstances. So the fifth factor favors dismissal.

6 Having thoroughly considered these dismissal factors, the Court finds that they weigh in
7 favor of dismissal.

8 **IT IS THEREFORE ORDERED** that this action is dismissed without prejudice based on
9 Nunn's failure to clarify the purpose of this action, file a fully complete application to proceed *in*
10 *forma pauperis*, or pay the full \$405 filing fee in compliance with this Court's October 31, 2024,
11 order. The Clerk of Court is directed to enter judgment accordingly and close this case. No other
12 documents may be filed in this now-closed case. If Nunn wishes to pursue his claims, he must file
13 a complaint in a new case.

14 **IT IS FURTHER ORDERED** that Plaintiff may move to reopen this case and vacate the
15 judgment by filing a motion for reconsideration of this order. In this motion, the Plaintiff is
16 required to explain what circumstances delayed him from paying the filing fee or filing the
17 application to proceed *in forma pauperis* and a complaint in compliance with LSR 2-1. If the Court
18 finds there to be good cause or a reasonable explanation therein, the Court will reopen the case
19 and vacate the judgment.

20 **DATED:** January 22, 2025



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23 **RICHARD F. BOULWARE, II**
24 **UNITED STATES DISTRICT JUDGE**
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